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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND ANTIONE BRAGGS,

Defendant and Appellant.

C086313

(Super. Ct. Nos.
STKCRFER20170009759,
STKCRFER20150014260)

On appeal, defendant Raymond Antione Braggs contends the trial court erred in denying his Penal Code section 1170.18¹ petition to reclassify his felony receiving stolen property conviction as a misdemeanor by finding the value of the stolen checks he received exceeded \$950. We conclude defendant was not eligible to file a section 1170.18 petition because defendant was neither serving nor had completed his sentence on the receiving stolen property conviction when Proposition 47 took

¹ Undesignated statutory references are to the Penal Code.

effect. After the effective date of Proposition 47, defendant entered his plea to felony receiving stolen property that necessarily admitted the value of the stolen checks exceeded \$950. Accordingly, we affirm the judgment.

BACKGROUND²

On November 2, 2015, defendant was found possessing six paychecks with an aggregate total of \$987.66, issued to another person.

Defendant was charged with felony receiving stolen property in case No. STKCRFER20150014260. At the November 23, 2015 preliminary hearing, the trial court ruled a felony receiving stolen property charge required the property in question to be worth more than \$950. It denied defendant's motion to reduce the charge to a misdemeanor and sustained the felony charge.

Defendant pleaded no contest to felony receiving stolen property (§ 496) and admitted four prior prison term allegations (§ 667.5, subd. (b)) in case No. STKCRFER20150014260. The trial court imposed the stipulated sentence of seven years in state prison, execution suspended pending a successful drug treatment program and five years' probation. Defendant violated his probation by failing to report to his probation officer, failing to complete the drug treatment program, and failing to obey all laws (in that he committed an auto burglary). His probation was revoked.

On October 20, 2017, a jury found defendant guilty of second degree auto burglary (§ 459) and misdemeanor possession of burglary tools (§ 466) in case No. STKCRFER20170009759. The trial court denied defendant's section 1170.18 petition to reduce his felony receiving stolen property conviction to a misdemeanor in case No. STKCRFER20150014260, finding defendant had not met his burden of proving

² We omit the facts of defendant's crimes in case No. STKCRFER20170009759 because they are unnecessary to resolve this appeal. We briefly recite the facts of defendant's crime in case No. STKCRFER20150014260 to give context to his claim.

the value of the stolen checks did not exceed \$950. Sentencing defendant in both cases, the trial court imposed an 11-year 4-month state prison term.

DISCUSSION

Proposition 47 was enacted on November 4, 2014 (as approved by voters Gen. Elec., Nov. 4, 2014, eff. Nov. 5, 2014). (*People v. Buycks* (2018) 5 Cal.5th 857, 87-871.) Following its enactment, receiving stolen property is a misdemeanor unless the value of the property received exceeds \$950. (§ 496, subd. (a); *People v. Varner* (2016) 3 Cal.App.5th 360, 366.)

Defendant contends the trial court erred in denying his petition, arguing the checks should not be valued at their face value because the checks had no market value. In a case decided after the conclusion of briefing, the Supreme Court held the value of a forged check equals its face value. (*People v. Franco* (2018) 6 Cal.5th 433, 434.)

Even if we did not apply this decision to this appeal, the result would be the same. As we explain, defendant was not eligible to file a resentencing petition and his no contest plea to felony receiving stolen property admitted the checks' value exceeded \$950.

The changes enacted by Proposition 47 apply to any defendant convicted after the Proposition's effective date. (*People v. Shabazz* (2015) 237 Cal.App.4th 303, 309 ["There is no retroactivity issue for an accused convicted after the effective date of Proposition 47"].) A section 1170.18 petition is limited to a defendant "who, on November 5, 2014, was serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section ('this act') had this act been in effect at the time of the offense" (§ 1170.18, subd. (a)) or one "who has completed his or her sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under this act had this act been in effect at the time of the offense." (§ 1170.18, subd. (f).) Here, defendant was not eligible to file a section 1170.18 petition because he was not

serving a sentence nor had he completed a sentence for the felony receiving stolen property conviction.

Finally, as the trial court recognized at the preliminary hearing, an element of a felony receiving stolen property was that the property's value exceeded \$950. A no contest plea admits every element of the offense. (*People v. Saez* (2015) 237 Cal.App.4th 1177, 1206.) By pleading to felony receiving stolen property, defendant admitted the value of the stolen checks exceeded \$950.

DISPOSITION

The judgment is affirmed.

_____/s/
HOCH, J.

We concur:

_____/s/
ROBIE, Acting P. J.

_____/s/
MURRAY, J.